REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims are respectfully requested.

Status of Claims

In the Double Patenting section of the May 1, 2008 Office Action, the Examiner related to a rejection of claims 25-**40**. At the same time, in the Office Action Summary, a reference to a rejection of claims 25-**34** was made. Since only claims 25-**34** are pending in the application, it is respectfully requested that the Examiner corrects the error made in the Office Action. This response reflects the Applicants' understanding that claims 25-**34** were rejected.

Claims 25-34 are pending in the application. Claims 25-34 have been rejected. Claims 25, 26, 30, 31, 32 and 34 have been amended.

Claims 26, 30, 32 and 34 have been voluntarily amended, partially for clarification and partially to make them concurrent with the amendment of independent claim 25.

Applicants respectfully assert that the amendments to the claims add no new matter.

Double Patenting Rejections

In the Office Action, the Examiner rejected claims 25-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,474,592.

Applicants hereby offer to provide a terminal disclaimer upon indication by the Examiner of allowable claims.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 25-34 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement.

Claim 25 has been amended to overcome the antecedent basis deficiencies noted by the Examiner. More specifically, the term "impact assessment controller" has been amended to read "impact assessment unit". It is respectfully asserted that the foregoing amendment merely addresses matters of form and does not change the literal scope of the claim in any way or result in any prosecution history estoppel.

Applicants respectfully assert that this amendment renders independent claim 25 and claims 26-34, dependent from claim 25, proper under 35 USC §112 and request that the rejection be withdrawn.

In addition, in the Office Action, the Examiner rejected claim 30 under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It appears that it was the Examiner's intention to reject claim **31**, which included the term "negotiating_resources", and not claim 30. Based on this understanding, claim 31 has been amended to overcome the antecedent basis deficiencies. It is respectfully asserted that the foregoing amendment merely addresses matters of form and does not change the literal scope of the claim in any way or result in any prosecution history estoppel.

Applicants respectfully assert that this amendment renders claim 31 proper under 35 USC §112.

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 25-32 and 34 under 35 U.S.C. § 102(b), as being anticipated by Shnaps (U.S. Patent No. 6,345,784). Applicants respectfully traverse this rejection in view of the remarks that follow.

Claim 25, as amended, recites "connecting an impact assessment unit to a platform electronic warfare system; negotiating access to resources associated with the platform electronic warfare system; and regulating communication with a smart munition using a receiver inherent to the platform electronic warfare system".

Shnaps does not disclose a method for impact assessment comprising one or more of the elements of claim 25, namely:

- connecting an impact assessment unit to a platform electronic warfare system;
- negotiating access to resources associated with the platform electronic warfare system; and
- regulating communication with a smart munition using a receiver associated with the platform electronic warfare system.

In contrast, Shnaps discloses a method and system and a self guided munition employing same, which can be used to determine an impact success or failure of the self guided munition. The system "makes use of the abundant space available within a munition body, to place the processing and transmitting functions therein such that a position and orientation of a munitions with respect to a target, can be calculated on board the munition and relayed to the platform" (lines 48-52 in column 7, emphasis added).

It is clear from the preceding quote that Shnaps discloses a feature that is implemented on board the munition, while amended claim 25 recites "connecting an impact assessment unit to a platform electronic warfare system". Nowhere does Shnaps disclose, teach or suggest an impact assessment unit which is connected to a platform electronic warfare system.

Moreover, Shnaps does not disclose, teach or suggest any of the three different limitations involving a "platform electronic warfare system" recited along amended claim 25.

More specifically, in regard to the third limitation, which reads "regulating communication with a smart munition using a receiver inherent to the platform electronic warfare system", Shnaps explicitly teaches that "the signal transmitted by transmitter 28 is a radiofrequency signal which is receivable by a radiofrequency receiver of platform 27. Preferably the receiver is inherent to a radio communication system of platform 27" (lines 60-63 in column 7, emphasis added), and that "by utilizing radio communication no modifications or addition of hardware to the platform are necessary, greatly simplifying deployment of munition 10 of the present invention. In addition, since the radio communication system inherent to platform 27 is utilized as a receiver, minimal operator training and handling is required" (lines 34-39 in column 8, emphasis added).

Clearly, Shnaps teaches that the platform's receiver utilized for receiving the munition's transmission is the radio receiver of the platform. Conversely, in amended claim 25, a different receiver, one which is associated with the platform electronic warfare system, regulates the communication with the smart munition. The platform's radio receiver and its electronic warfare system are, unmistakably, two completely different systems.

As is well established, for a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, Shnaps cannot anticipate claim 25, as amended, since it fails to disclose one or more of the claim's elements.

Accordingly, Applicants respectfully assert that amended independent claim 25 is allowable. Claims 26-32 and 34 depend, directly or indirectly, from amended claim 25, and therefore include all the limitations of this claim. Hence, Applicants respectfully assert that claims 26-32 and 34 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraws the rejections to claims 25-32 and 34.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claim 33 under 35 U.S.C. § 103(a), as being unpatentable over Shnaps (U.S. Patent No. 6,345,784).

Claim 33 is dependent from amended claim 25 and therefore includes all the limitations thereof. Shnaps was discussed above, and, as noted, Applicants assert that it does not disclose one or more of the elements of amended claim 25.

In light of the above argument alone, claim 33 is deemed allowable. Nonetheless, Applicants wish to assert that the range of 2-2.6 gigahertz is received by "a receiver inherent to the platform electronic warfare system" (amended claim 25), and is therefore non-obvious over the ranges disclosed by Shnaps in regard to the platform's radio receiver. Shnaps lacks basis and motivation for modifying its disclosed frequency ranges of the radio receiver to other, significantly higher frequency ranges of the current "receiver associated with the platform electronic warfare system."

Accordingly, it is respectfully requested that the rejection of claim 33 under 35 U.S.C. § 103(a) be withdrawn.

In the Office Action, additionally, the Examiner rejected claims 25-34 under 35 U.S.C. § 103(a), as being unpatentable over Shnaps (U.S. Patent No. 6,345,784) in view of Astle et al. (U.S. Patent No. 6,396,816).

Claims 26-34 are dependent, directly or indirectly, from amended claim 25. Shnaps was discussed above, and, as noted, Applicants assert that it does not disclose one or more elements of amended claim 25. It is respectfully asserted that the deficiency of Shnaps is not cured by Astle. Therefore, the Examiner fails to establish a prima facie case of obviousness showing that Shnaps and Astle, alone or in combination, teach, disclose or suggest all the limitations of claims 25-34.

Accordingly, it is respectfully requested that the rejection of claims 25-34 under 35 U.S.C. § 103(a) be withdrawn.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance are respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3400.

Respectfully submitted,

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Dated: August 13, 2008

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